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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,627	03/22/2004	Miguel Borroto	MIM1598	1466
34803	7590	02/07/2005	EXAMINER	
DAVID A. LINGBECK P.O. BOX 500 ST. MICHAEL, MN 55376			BASINGER, SHERMAN D	
			ART UNIT	PAPER NUMBER
			3617	

DATE MAILED: 02/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/805,627

Applicant(s)

BORROTO, MIGUEL

Examiner

Sherman D. Basinger

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-13 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Specification*

1. The known prior art discussed in the last full paragraph on page 2 of the specification does not appear to be related to the instant application. This prior art, for the most part, concerns golf ball holders.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Meehan.
4. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Maser.
5. Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Root.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meehan in view of Graham.

Art Unit: 3617

Meehan discloses fin member 18 and stopper members 28 and 30, but only discloses one paddle member 26.

Graham discloses paddle members 38 and 40 and stopper members 54 and 56. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to replace the paddle member and stopper members of Meehan with paddle members and stopper members similar to those of Graham. Motivation to do so is to provide a more efficient means of moving the hollow floatation member of Meehan.

The hinged attachment of the fin member 18 is through fulcrum point 20 of Meehan.

8. Claims 1-4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaupp in view of Meehan.

Meehan discloses elongate hollow floatation members.

The floatation members of Schaupp are not hollow; however, to make them hollow as taught by Meehan would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Motivation to do so is to make them as a molded plastic structure. This is a cost effective way to make the floatation members.

The bracket members of claim 6 are on either side of the supports 11 of Schaupp. The foot pedal hingedly attached to the bracket members is 12 of Schaupp.

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maser in view of Aziz.

Art Unit: 3617

Maser does not disclose his foot restraining member as being a padded bar spaced above a bottom wall and being attached to side walls defining the foot receiving slot so that the user can place a front portion of one's foot under the padded bar.

Aziz discloses padded bar 12 spaced above a floor and attached to side walls 4 so that a user can place a front portion of his foot under the padded bar as is shown in figure 4.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to provide a padded bar similar to 12 of Aziz to Maser in place of Maser's foot restraining member, the bar being spaced above a bottom wall and being attached to the side walls defining the foot receiving slot so that the user can place a front portion of one's foot under the padded bar.

Motivation to do so is to provide a foot restraining which is easier to use-will not take as much time to engage as the foot restraint used by Maser.

10. Claims 2-4, 7, 8 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Root in view of Fournier.

Root does not disclose the use of a foot restraining member in the foot receiving slots. Note the restraining member 9 of Fournier. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to provide the foot receiving members of Root foot restraints similar to those of Fournier. From the drawings of Root it appears that such a foot restraint is present; however, Root does not disclose it. Motivation to provide a foot restraint for

each floatation member is to make sure the foot remains in the foot receiving slots when one is using the devices of Root.

In Root, the fin member is 28, the paddles are 34 and 36, the stop members are 38 and the seat assembly is made up of seat 54 and seat support members 40 and 42.

Root does not disclose the use of oar members; however, note oar members 19 of Fournier. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to use oar members similar to 19 of Fournier with the device of Root. Motivation to do so is to provide a propulsion means for moving the devices when one is sitting in the seat and one is not using the hand sail of Root.

In Fournier, pontoons 20 are the paddle portions of the oar members.

#### ***Allowable Subject Matter***

11. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***


12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherman D. Basinger whose telephone number is 703-308-1139. The examiner can normally be reached on M-F (6:00-2:30 ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 703-308-0230. The fax phone

Art Unit: 3617

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Sherman D. Basinger  
Primary Examiner  
Art Unit 3617  
*2/4/05*

Friday, February 04, 2005